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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/918,413

07/30/2001

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11/28/2006

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EXAMINER

TOMASZEWSKI, MICHAEL

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.



## **DETAILED ACTION**

### ***Notice To Applicant***

1. This communication is in response to the amendment filed on 9/6/06. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office Action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 9/6/06 has been entered.

Claims 3-4, 7-8, 10-12, 14-15, 17-19, 21-24, 26, 35-37, 39, and 51-57 have been cancelled. Claims 1, 5, 9, 16, 25, 40, and 58 have been amended. Claims 1-2, 5-6, 9, 13, 16, 20, 25, 27-34, 38, 40, 44-50 and 58-69 are pending.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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3. Claims 1-2, 9, 13, 25, 27-29, 33-34, 38, 40, 45-47, 63, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato et al. (5,911,687; hereinafter Sato), in view of Bluth et al (6,403,897; hereinafter Bluth).

(A) As per currently amended claim 1, Sato discloses a method, comprising:

- (1) establishing a virtual clinic on a network (Sato: col. 1, lines 5-14; col. 4, line 65-col. 5, line 2; Fig. 1);
- (2) the virtual clinic having working relationships with medical professionals (Sato: col. 4, line 65-col. 5, line 2; Fig. 1);
- (3) the virtual clinic being associated with diagnostic centers, each diagnostic center having diagnostic equipment for generating diagnostic test results (Sato: col. 4, line 65-col. 5, line 2; Fig. 1);
- (4) receiving a request for medical services from the particular patient by the virtual clinic (Sato: abstract); and
- (5) establishing a real-time electronic communications link between the particular patient and a particular medical professional by the virtual clinic (Sato: col. 6, lines 32-40).

Sato, however, fails to *expressly* disclose a method, comprising:

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- (6) a particular diagnostic center being other than a treatment-providing facility or a patient's private home (Bluth: col. 1, lines 17-67).
- (7) obtaining particular diagnostic test results by the particular patient at the particular diagnostic center (Bluth: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Bluth with the teachings of Sato with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

(B) As per previously presented claim 2, Sato discloses the method of claim 1, further comprising:

- (1) receiving, by the virtual clinic, information about the patient (Sato: abstract; col. 2, lines 7-31); and
- (2) based upon the information about the patient, selecting a medical professional (Sato: abstract; col. 5, lines 26-43).

Sato, however, fails to *expressly* disclose the method of claim 1, further comprising:

- (3) accessing a web page by the patient that is provided by the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses the method of claim 1, further comprising:

- (3) accessing a web page by the patient that is provided by the virtual clinic.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(C) As per currently amended claim 9, Sato discloses a system comprising:

- (1) a network (Sato: col. 1, lines 5-14; col. 4, line 65-col. 5, line 1; Fig. 1);
- (2) a medical professional device for use by a medical professional and  
enabled to receive information from the network and to submit responses  
on the network (Sato: col. 4, lines 65-col. 5, line 2; col. 6, lines 32-40; Fig.  
1);

- (3) a patient device for use by a patient and enabled to submit information on the network and to receive responses from the network (Sato: col. 4, lines 65-col. 5, line 2; col. 6, lines 32-40; Fig. 1);
- (4) a diagnostic center having diagnostic testing equipment (Sato: col. 4, line 65-col. 5, line 43; Fig. 1); and
- (5) a virtual clinic being configured to receive information and responses from the network, to select the medical professional based upon the information provided by the patient, and to enable real-time electronic communication of the information and the responses between the medical professional device and the patient device, the virtual clinic associated with the diagnostic center (Sato: abstract; col. 6, line 32-40).

Sato, however, fails to *expressly* disclose a system comprising:

- (6) a diagnostic center being other than a treatment-providing facility or the patient's home.

Nevertheless, these features are old and well known in the art, as evidenced by Bluth. In particular, Bluth discloses a system comprising:

- (6) a diagnostic center being other than a treatment-providing facility or the patient's home (Bluth: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Bluth with the teachings of Sato with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

(D) As per previously presented claim 13, Sato discloses the system as in claim 9, the system further comprising:

- (1) a hospital-enabled to receive the information from the network and to submit responses (Sato: abstract; col. 4, line 65-col. 5, lines 1; 25; Fig. 1).

(E) As per currently amended claim 25, Sato discloses a method, comprising:

- (1) establishing a virtual clinic having capabilities for:
  - (i) enabling a patient to contact the virtual clinic (Sato: abstract; col. 8, lines 28-35; Fig. 7);
  - (ii) collecting information on the patient's medical condition (Sato: abstract; col. 6, lines 32-40);
  - (iii) identifying at least one medical professional based on the collected information (Sato: abstract; col. 8, lines 43-59; Fig. 10); and



- (iv) accessing the patient's medical records (Sato: abstract; col. 2, lines 7-31; Fig. 3);
- (2) establishing a working relationship with the least one medical professional to provide medical services to patients referred via the virtual clinic, the medical professional providing information relating to qualifications for use during a selection process (Sato: col. 4, lines 65-col. 5, line 2; col. 8, lines 48-56; Fig. 1; Fig. 10);
- (3) providing diagnostic testing equipment at a diagnostic center associated with the virtual clinic (Sato: col. 6, lines 32-40; Fig. 2a-2b); and
- (4) enabling by the virtual clinic real-time electronic communication between a patient device operated by the patient and a medical professional device operated by a medical professional to transmit the information regarding the patient's condition, results from the diagnostic equipment, and recommended treatment (Sato: col. 4, 65-col. 5, line 2; col. 6, lines 32-44).

Sato, however, fails to *expressly* disclose a method, comprising:

- (5) the diagnostic center being other than a treatment-providing facility or the patient's private home.

Nevertheless, these features are old and well known in the art, as evidenced by Bluth. In particular, Bluth discloses a method, comprising:

- (5) the diagnostic center being other than a treatment-providing facility or the patient's private home (Bluth: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Bluth with the teachings of Sato with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

(F) As per previously presented claim 27, Sato discloses the method of claim 25 further comprising:

- (1) submitting information relating to medical licenses by the medical professional (Sato: col. 8, lines 48-60; Fig. 10); and
- (2) comparing a patient's residence with the medical professional's medical license by the virtual clinic (Sato: col. 7, lines 56-67; col. 8, lines 1-67; col. 9, lines 1-11; Figs. 6-13).

(G) As per previously presented claim 28, Sato discloses the method of claim 25 further comprising:

- (1) providing the patient with access to the diagnostic testing equipment

(Sato: col. 6, lines 32-40; Fig. 2a-2b).

(H) As per previously presented claim 29, Sato discloses the method of claim 25, wherein the step of providing diagnostic testing equipment comprises providing for communication of diagnostic testing equipment results with the virtual clinic and at least one medical professional (Sato: col. 6, lines 18-40).

(I) As per previously presented claim 33, Sato discloses the method of claim 25, wherein the virtual clinic has the capability for informing a medical professional of diagnostic testing equipment results (Sato: col. 6, lines 20-40; Figs. 1-2b).

(J) As per previously presented claim 34, Sato discloses the method of claim 25, wherein the virtual clinic has the capability for allowing a medical professional to access and update a patient's medical records (Sato: col. 9, lines 4-11; col. 10, lines 35-42; Figs. 1-21).

(K) As per previously presented claim 38, Sato discloses the method of claim 25, further comprising:

- (1) contracting with at least one hospital to provide access to diagnostic testing equipment to patients of the virtual clinic (Sato: abstract; col. 6, lines 32-40).
- (L) As per currently amended claim 40, Sato discloses a method, comprising:
- (1) a patient contacting a virtual clinic (Sato: abstract);
  - (2) the patient providing information on his medical condition to the virtual clinic (Sato: col. 2, lines 7-33);
  - (3) the virtual clinic identifying a medical professional based on the patient-provided medical condition information (Sato: col. 2, lines 7-33);
  - (4) the virtual clinic enabling real-time electronic communication between a patient device operated by the patient and a medical professional device operated by the identified medical professional (Sato: col. 4, 65-col. 5, line 2; col. 6, lines 32-44);
  - (5) the patient corresponding electronically with the medical professional (Sato: col. 4, 65-col. 5, line 2; col. 6, lines 32-44);
  - (6) the virtual clinic enabling the patient to access a diagnostic center being associated with the virtual clinic, the diagnostic center having diagnostic testing equipment (Sato: col. 4, 65-col. 5, line 2; col. 6, lines 32-44); and
  - (7) the medical professional informing the patient of recommended treatment (Sato: abstract; col. 5, lines 26-33; col. 6, lines 32-44).

Sato, however, fails to *expressly* disclose a method, comprising:

- (8) the diagnostic center being other than a treatment-providing facility or the patient's private home.

Nevertheless, these features are old and well known in the art, as evidenced by Bluth. In particular, Bluth discloses a method, comprising:

- (8) the diagnostic center being other than a treatment-providing facility or the patient's private home (Bluth: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Bluth with the teachings of Sato with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

(M) As per previously presented claim 45, Sato discloses the method of claim 40, further comprising:

- (1) informing the medical professional of the diagnostic testing equipment available to the patient (Sato: col. 6, lines 20-40; Figs. 1-2b).

(N) As per previously presented claim 46, Sato discloses the method of claim 40, further comprising:

- (1) at least one medical professional providing information relating to medical licenses and the virtual clinic comparing a patient's residence with a medical professional's medical license (Sato: col. 7, line 56-col. 8, line 67; col. 9, lines 1-11; Figs. 6-13).

(O) As per previously presented claim 47, Sato discloses the method of claim 40, wherein the step of identifying a medical professional based on the patient-provided medical condition information comprises medical professionals providing information relating to qualifications and the virtual clinic comparing the patient-provided medical condition information with the medical professional-provided information relating to qualifications (Sato: col. 4, lines 65-col. 5, line 2; col. 8, lines 48-56; Fig. 1; Fig. 10).

(P) As per new claim 63, Sato discloses the method of claim 1, wherein the particular diagnostic center is located in a public facility (Sato: abstract).

(Q) New claim 66 substantially repeats the same limitations as new claim 63 and therefore, is rejected for the same reasons given for that claim and incorporated herein.

4. Claims 5-6, 16, 20, 30-32, 41-44, 48-49, and 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato, in view of Bluth, and in view of Joao (6,283,761; hereinafter Joao).

(A) As per currently amended claim 5, Sato discloses a method for delivering patient care, comprising:

- (1) establishing a virtual clinic on a network (Sato: col. 1, lines 5-14; col. 4, line 65-col. 5, line 2; Fig. 1);
- (2) the virtual clinic having a working relationship with one or more medical professionals (Sato: col. 4, line 65-col. 5, line 2; Fig. 1);
- (3) the virtual clinic being associated with a diagnostic centers, each diagnostic center having diagnostic testing equipment (Sato: col. 4, line 65-col. 5, line 43; Fig. 1);
- (4) receiving a request for medical services from the patient (Sato: abstract);  
and
- (5) establishing a real-time electronic communications link between the patient and one of the one or more medical professionals by the virtual clinic (Sato: col. 6, lines 32-40).

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Sato, however, fails to *expressly* disclose a method for delivering patient care, comprising:

- (6) a particular diagnostic center being other than a treatment-providing facility or a patient's private home;
- (7) the virtual clinic having a working relationship with an insurance carrier, the insurance carrier having a patient to which the insurance carrier provides benefits; and
- (8) obtaining particular diagnostic test results by the patient at the particular diagnostic center.

Nevertheless, these features are old and well known in the art, as evidenced by Bluth and Joao. In particular, Bluth and Joao disclose a method for delivering patient care, comprising:

- (6) a particular diagnostic center being other than a treatment-providing facility or a patient's private home (Bluth: col. 1, lines 17-67);
- (7) the virtual clinic having a working relationship with an insurance carrier, the insurance carrier having a patient to which the insurance carrier provides benefits (Joao: col. 2, lines 55-62; Fig. 1); and
- (8) obtaining particular diagnostic test results by the patient at the particular diagnostic center (Bluth: col. 1, lines 17-67).



One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Bluth with the combined teachings of Sato and Joao with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(B) As per previously presented claim 6, Sato discloses the method of claim 5, further comprising:

- (1) based upon the information, selecting a medical professional (Sato: abstract; col. 5, lines 26-43).

Sato, however, fails to *expressly* disclose the method of claim 5, further comprising:

- (2) accessing a web page by the patient that is provided by the insurance carrier;
- (3) receiving, by the insurance carrier, information from the patient through the web page; and
- (4) forwarding the information to the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses the method of claim 5, further comprising:

- (2) accessing a web page by the patient that is provided by the insurance carrier (Joao: col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1);
- (3) receiving, by the insurance carrier, information from the patient through the web page (Joao: col. 11, lines 65-col. 12, line 50; col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1); and
- (4) forwarding the information to the virtual clinic (Joao: col. 14, lines 59-col. 15, line 5; Fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing

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diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(C) As per currently amended claim 16, Sato discloses a system comprising:

- (1) a network (Sato: col. 1, lines 5-14; col. 4, line 65-col. 5, line 1; Fig. 1);
- (2) a medical professional device for use by a medical professional and enabled to receive information from the network and to submit responses on the network (Sato: col. 4, line 65-col. 5, line 2; col. 6, lines 32-40; Fig. 1);
- (3) a patient device for use by a patient and enabled to make a request for medical services, to submit the information on the network and to receive the responses from the network (Sato: col. 4, lines 65-col. 5, line 2; col. 6, lines 32-40; Fig. 1);
- (4) a diagnostic center having diagnostic testing equipment (Sato: col. 4, line 65-col. 5, line 43; Fig. 1); and
- (5) the virtual clinic being configured to receive the information and the responses from the network, the virtual clinic being configured to select the medical professional based upon the information provided by the patient, the virtual clinic being configured to enable real-time electronic communication of the information and the responses between the medical professional device and the patient, the virtual clinic being associated with

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the diagnostic center (Sato: col. 4, line 65-col. 5, line 43; col. 6, lines 32-40; Fig. 1).

Sato, however, fails to *expressly* disclose a system comprising:

- (6) a diagnostic center having diagnostic testing equipment and being other than a treatment-providing facility or the patient's private home; and
- (7) an insurance carrier being configured to receive the request for medical services from the patient and to forward the request to a virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by Bluth and Joao. In particular, Bluth and Joao disclose a system comprising:

- (6) a diagnostic center being other than a treatment-providing facility or the patient's private home (Bluth: col. 1, lines 17-67); and
- (7) an insurance carrier being configured to receive the request for medical services from the patient and to forward the request to a virtual clinic (Joao: col. 2, lines 55-62; Fig. 1).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Bluth with the combined teachings of Sato and

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Joao with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses; and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(D) As per previously presented claim 20, Sato discloses the system as in claim 16, the system further comprising:

- (1) a hospital enabled to receive the information from the network and to submit responses (Sato: abstract; col. 4, line 65-col. 5, lines 1; 25; Fig. 1).

(E) As per original claim 30, Sato fails to *expressly* disclose the method of Claim 25, wherein the virtual clinic has a presence on at least one Internet site.

Nevertheless, this feature is old and well known, as evidenced by Joao. In particular, Joao discloses the method of Claim 25, wherein the virtual clinic has a presence on at least one Internet site (Joao: col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(F) As previously presented claim 31, Sato fails to *expressly* disclose the method of claim 25, wherein the virtual clinic further has the capability for at least one insurance company to refer patients to the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses the method of claim 25, wherein the virtual clinic further has the capability for at least one insurance company to refer patients to the virtual clinic (Joao: abstract; col. 31, lines 65-67; col. 32, lines 1-46; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

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(G) As per previously presented claim 32, Sato fails to *expressly* disclose the method of claim 25, wherein the virtual clinic has the capability for at least one hospital to refer patients to the virtual clinic.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses the method of claim 25, wherein the virtual clinic has the capability for at least one hospital to refer patients to the virtual clinic (Joao: abstract; col. 31, lines 65-67; col. 32, lines 1-46; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(H) Original claims 41-42 substantially repeat the same limitations as claims 31-32 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

(I) As per original claim 43, Sato fails to expressly disclose the method of claim 40, further comprising:

- (1) the virtual clinic receiving payment for medical services provided.

Nevertheless, this feature is old and well known in the art, as evidenced by Joao. In particular, Joao discloses the method of claim 40, further comprising:

- (1) the virtual clinic receiving payment for medical services provided (Joao: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(J) As per previously presented claim 44, Sato fails to *expressly* disclose the method of claim 43, further comprising:

- (1) the virtual clinic forwarding a portion of the received payment to the medical professional.

Nevertheless, this feature is old and well known in the art, as evidenced by Joao. In particular, Joao discloses the method of claim 43, further comprising:



- (1) the virtual clinic forwarding a portion of the received payment to the medical professional (Joao: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(K) As per original claim 48, Sato fails to *expressly* disclose the method of claim 40, further comprising:

- (1) the patient contracting with the virtual clinic to provide payment in return for receiving medical services.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses the method of claim 40, further comprising:

- (1) the patient contracting with the virtual clinic to provide payment in return for receiving medical services (Joao: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(L) As per original claim 49, Sato fails to *expressly* disclose the method of claim 40, further comprising:

- (1) at least one insurance company reimbursing the virtual clinic for medical services provided to at least one patient (Joao: col. 37, lines 35-67; col. 38, lines 1-8; Fig. 1).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing

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diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(M) As per currently amended claim 58, Sato discloses a virtual clinic, comprising:

- (1) enabling a patient to request consultation with a medical professional and to provide medical condition information (Sato: col. 2, lines 7-33);
- (2) a medical professional database for storing contact information and qualifications for a set of medical professionals (Sato: col. 2, lines 7-33; col. 8, lines 48-59);
- (3) a medical professional selection component for selecting one of the medical professionals in the medical professional database based on predetermined criteria (Sato: col. 5, lines 39-43; col. 8, lines 43-49);
- (4) a communication component for enabling real-time electronic communication between the selected medical professional and the patient (Sato: col. 6, lines 32-40); and
- (5) a diagnostic test equipment communication component for communicating with diagnostic test equipment to obtain diagnostic test results of a patient (Sato: col. 6, lines 20-40).

Sato, however, fails to *expressly* disclose a virtual clinic, comprising:

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- (6) a web page; and
- (7) the diagnostic test equipment being maintained at a location other than a treatment-providing facility or the patient's private home.

Nevertheless, these features are old and well known in the art, as evidenced by Joao. In particular, Joao discloses a virtual clinic, comprising:

- (6) a web page (Joao: col. 15, lines 18-25; col. 18, lines 32-44; Fig. 1); and
- (7) the diagnostic test equipment being maintained at a location other than a treatment-providing facility or the patient's private home (Bluth: col. 1, lines 17-67).

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Bluth with the combined teachings of Sato and Joao with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of Joao with the combined teachings of Sato and Bluth with the motivation of providing an apparatus and method for processing and/or providing healthcare information between all healthcare participants; for performing diagnoses, and for prescribing healthcare treatment, among other things, in a network environment (Joao: col. 7, lines 62-67; col. 8, lines 15-26).

(N) As per previously presented claim 59, Sato discloses the virtual clinic of claim 58, wherein the predetermined criteria involves one of the qualifications of the medical professional (Sato: col. 8, lines 52-56; Fig. 10).

Examiner has noted insofar as claim 59 recites "*involves one of* [emphasis added] the qualifications of the medical professional, the patient's medical condition information, the time of the request, scheduling information, location of the patient, patient request, patient preferences, availability of a patient's standard physician, insurance information, employer information, and a prior medical professional assisting the patient," the qualifications of the medical professional is recited.

(O) As per previously presented claim 60, Sato discloses the virtual clinic of claim 58, further comprising a patient records accessing component for communicating with a patient records database to provide patients records information to the medical professional (Sato: col. 10, lines 35-43).

5. Claim 50 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sato, in view of Bluth, as applied to claim 40 above, and further in view of SoRelle (SoRelle, Ruth. "Doctor's Referral Fee Is Ruled A Violation" Aug 1, 1987. Houston Chronicle. pg. 18; hereinafter SoRelle).

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(A) As per previously presented claim 50, Sato fails to *expressly* disclose the method of claim 40, further comprising:

- (1) at least one physician reimbursing the virtual clinic for directing the patient to the medical professional.

Nevertheless, these features are old and well known in the art, as evidenced by SoRelle. In particular, SoRelle discloses the method of claim 40, further comprising:

- (1) at least one physician reimbursing the virtual clinic for directing the patient to the medical professional (SoRelle: pgs. 1-2).

One of ordinary skill would have found it obvious at the time of the invention to include the aforementioned features of SoRelle with the combined teachings of Sato and Bluth with the motivation of compensating an entity contracted to provide referrals (SoRelle: pgs. 1-2).

6. Claims 61-62 and 64-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato, in view of Bluth, as applied to claims 1 and 9 above, and further in view of Official Notice.

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(A) As per new claim 61, Sato fails to *expressly* disclose the method of claim 1, wherein the particular diagnostic center is located in an apartment complex.

Nevertheless, Examiner takes Official Notice of the technique of placing a diagnostic center in an apartment complex.

Examiner considers the placement of a diagnostic center in an apartment complex to be notoriously well known and obvious. For example, assisted living facilities (i.e., apartment complexes) cater to, inter alia, elderly individuals requiring medical attention involving diagnostic equipment. Moreover, Examiner respectfully submits that the technique of placing diagnostic centers within an apartment complex was developed and implemented prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Sato and Bluth with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

(B) As per new claim 62, Sato fails to *expressly* disclose the method of claim 1, wherein the particular diagnostic center is located in a workplace of the particular patient.

Nevertheless, Examiner takes Official Notice of the technique of placing a diagnostic center in the workplace of the particular patient.

Examiner considers the placement of a diagnostic center in a workplace of the particular patient to be notoriously well known and obvious. For example, many large

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corporations tend to have some sort of medical personnel on staff at their headquarters who perform rudimentary medical procedures, such as, inter alia, diagnostic tests (e.g., blood pressure, heart rate, etc.). Moreover, Examiner respectfully submits that the technique of placing diagnostic centers within the workplace of the particular patient was developed and implemented prior to Applicant's claimed invention.

One of ordinary skill in the art would have found it obvious at the time of the invention to combine the teachings of Official Notice with the combined teachings of Sato and Bluth with the motivation of improving the capability of providing diagnostic testing to a wider range of individuals, needs, and situations (Bluth: col. 2, lines 1-3).

(C) Claims 64-65 substantially repeat the same limitations as those of claims 61-62 and therefore, are rejected for the same reasons given for those claims and incorporated herein.

7. Claims 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sato, in view of Bluth, and in view of Joao, as applied to claim 58 above, and further in view of Official Notice.

(A) Claims 67-69 substantially repeat the same limitations as those of claims 61-62 and therefore, are rejected for the same reasons given for those claims and incorporated herein.



***Response to Arguments***

8. Applicant's arguments pertaining 1) *a diagnostic center that is not a treatment-providing facility nor a patient's home*; and 2) *obtaining particular diagnostic test results by the particular patient at the particular diagnostic center* have been considered but are moot in view of new ground(s) of rejection.

9. Applicant's arguments filed 9/6/06 have been fully considered but they are not persuasive. Applicant's arguments will be addressed hereinbelow in the order in which they appear in the response filed 9/6/06.

(A) On page 12 of the 9/6/06 response, Applicant argues that Sato does not describe a diagnostic center that is not a treatment-providing facility nor a patient's home.

Applicant argues further that Sato does not describe obtaining particular diagnostic test results by the particular patient at the particular diagnostic center.

In response, Examiner respectfully submits that these arguments are rendered moot in view of new ground(s) of rejection, as discussed in §§ 2-8, *supra*.

(B) On page 13 of the 9/6/06 response, Applicant argues that Joao does not describe an online examination and treatment center.

In response, Examiner respectfully submits that Examiner did not rely solely on the teachings of Joao to reject the Applicant's claimed limitation; rather Examiner relied on the combined teachings of Joao, Sato, Bluth, SoRelle, and Official Notice. Joao, for example, teaches performing diagnoses remotely using a variety of treatment and diagnostic testing equipment enabled for use via the Internet (i.e., online) (Joao: col. 4, lines 33-39; col. 15, lines 18-27; col. 20, lines 61-64). As such, Examiner submits that Joao does indeed teach the aforementioned limitation claimed by Applicant, namely, an online examination and treatment center.

(C) Applicant's remaining arguments given in the response filed 9/6/06 rely upon or re-hash the issues addressed above and therefore, are moot in view of the responses given in § 9. (A) – (B), *supra*.

### ***Conclusion***


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mike Tomaszewski whose telephone number is (571)272-8117. The examiner can normally be reached on M-F 7:00 am - 3:30 pm.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571)272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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MT



  
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